

DRAFT

ALTERNATIVE COUNTY GOVERNMENT STRUCTURES

Draft

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Introduction

This is the first in a series of informational papers designed to help inform the members of the Charter Commission, the public, and other interested participants in the process of considering a Charter for Ulster County. Over the next 18 months, the Charter Commission will consider the charter vs. non-charter options and the alternative governmental structures they allow in New York State. Advantages and disadvantages and relative costs of alternatives will be researched. Additionally we will gather case examples of experiences and “lessons learned” from other counties that have adopted charters.

In this paper, we summarize the different forms of county government with comparisons of their structure, powers, and relative advantages and disadvantages. The five types of county structure analyzed in this paper range along a continuum. With regard to the legislature, there may be a body comprised of town elected officials who collectively serve as the county board, or a legislature separately elected for county purposes. With regard to the executive possibilities include: no executive, a legislatively appointed full- or part-time administrator, a legislatively appointed manager, and a directly elected executive.

1. Board of Supervisors
2. Legislature
3. County Administrator
4. County Manager
5. Elected Executive

Background

There were 3,034 counties in the United States in 2002. Their legal powers and organization vary greatly. In New York State, which has 57 counties plus New York City, 19 counties have adopted charters and 38 have not (See Annex A and *Briefing Book* materials).

The New York Constitution guarantees New Yorkers the right to elected local self - governance. Generally speaking, county structure in New York State includes:

1. A governing body: This may be a ***board of supervisors, county legislature*** or ***board of representatives*** ranging from 6 to 50 elected members.
2. A county head: In counties without charters, this is a supervisor or legislator, usually part-time, who serves as the Chief Elected Office (CEO). He or she is chosen by his or her peers. There may also be a part- or full-time person appointed by the legislature with limited administrative authority. Counties

with charters may have a legislatively *appointed administrator*, or *manager*, or an *elected executive* who is the CEO.

3. Separately elected officials with countywide jurisdictions: These usually include sheriff, district attorney, county clerk, treasurer, and some judges.
4. Boards or commissions: These have statutory authority in some functional areas.
5. Appointed department heads: Most administrative departments have single appointed heads (planning, transportation, health, welfare, libraries, parks, etc.) The appointing authority may be the legislative body or county executive. In some cases qualifications are defined in state laws.

The Five Basic Types of County Structure

1. Board of Supervisors (Rural)

Persons elected town supervisors in partisan elections serve simultaneously as members of the county board. Terms in both positions converge. Separately elected supervisors represent cities in the county government. The county's chief elected officer (CEO) is selected by a vote of his or her peers on the board. In most circumstances elected board members, including the CEO, serve part time. Weighted voting is used to meet federal one-person-one-vote requirements. Administrative responsibility for some functions is vested in independently elected officers, such as a county sheriff, treasurer, coroner, clerk, auditor, assessor, and/or prosecutor.

Advantages:

Tradition and familiarity are advantages of this form of county government. Because the board members represent are elected in their towns and also participate in governing the county, there is a close connection between these two important types of local government in the county. In general, citizens identify more with towns and cities than with counties as their communities. Ties to the county government through towns are structurally simpler (there is "one less layer") and therefore more understandable and likely to be stronger for citizens.

Disadvantages:

Town and county priorities may conflict. This is often the case, for example, in tax administration. In these circumstances a single person cannot represent the interests of both the town and the county. Elected officials serve part-time. (But note: This is regarded as an advantage by many.) Individual members or committees may give direction to departments, compromising the authority of appointed part- or full-time administrators. In this circumstance, county agencies, especially larger ones, may gain considerable autonomy and accountability may diminish. An overall perspective on county needs and clear definition of priorities may be harder to obtain. The needs of smaller agencies may be overlooked. If challenged, weighted voting -- adopted to continue the Board of Supervisors system in response to U.S. Supreme Court one-person-one-vote requirements -- is likely to be found unconstitutional. Overall, this traditional form is often criticized

for being incapable of handling the proper direction and supervision of the new and larger functional responsibilities of county governments faced with the growth and change that accompanied suburbanization.

2. **Legislative** (There are, of course, legislatures in all systems, as the New York State Constitution requires. These remarks address the situation in which there is an elected legislature but no appointed administrator.)

Legislators are elected in partisan elections from single- or multi- member districts. Their number varies, based upon local choice, as does the length of their terms. The county's chief elected officer (CEO) is selected by a vote of his or her peers on the board. In most circumstances elected board members, including the CEO, serve part time. Administrative responsibility for some functions is vested in independently elected officers, such as a county sheriff, treasurer, coroner, clerk, auditor, assessor, and/or prosecutor.

Advantages:

Those specifically elected to serve on the legislature do not have conflicting loyalties to town government. Relatively small district sizes may allow close, careful representation of local interests. An additional base is created in which citizens may gain experience in elected local office, and from which they may be recruited to contest for higher office. The constitutional issues connected with weighted voting are avoided.

Disadvantages:

District lines may not conform to town lines, creating greater complexity in the electoral system, confusing citizens and diminishing political accountability.

Elected officials serve part-time. (But note: This is regarded as an advantage by many.) Individual members or committees may give direction to departments, compromising the authority of appointed part- or full-time administrators. In this circumstance, county agencies, especially larger ones, may gain considerable autonomy and accountability may diminish. An overall perspective on count needs and clear definition of priorities may be harder to obtain. The needs of smaller agencies may be overlooked. Overall, this traditional form is often criticized for being incapable of handling the proper direction and supervision of the new and larger functional responsibilities of county governments faced with the growth and change that accompanied suburbanization.

3. **Administrator**

The elected legislative body (as the locus of both legislative and executive authority) appoints a part- or full-time chief administrative officer (CAO) to coordinate county departments, prepare budgets, draft ordinances, and oversee program implementation. The legislative body generally retains the power to appoint line department heads, except those elected county-wide

Advantages:

The county government's efficiency is increased because of the presence of central management. There is a clearer separation between policy-making, located in the county board or legislature, and the day-to-day administration, left in the hands of administrator-officer. His or her appointment by the board or legislature assures the administrators accountability to it. Power to propose the budget provides leverage with department heads. The administrator's experience, technical abilities and professionalism might facilitate the more effective general functioning of the county's government.

Disadvantages:

The administrator has no electoral base, and therefore can claim no mandate from the public. Part-time elected officials may not understand the distinction in roles between the administrator and a legislator or board member, or may simply wish to exercise directive control over a department or agency and act accordingly. If the legislature is divided by partisan or policy differences, the administrator may not be able to get clear policy direction from it. Visible public leadership on key concerns is less likely. Because the administrator does not hire or fire department heads, he or she may have difficulty gaining their loyalty and responsiveness, and disciplining the government.

4. County Manager

The elected legislative body appoints a county manager who serves at its pleasure and performs executive functions (such as, appointing department heads, hiring staff, administering county programs, drafting budgets, and proposing ordinances).

Advantages:

This system provides a central locus of administrative accountability while preserving responsiveness to the board or legislature. Most managers are professionally trained in public administration and engaged in professional associations. They are thus more likely to be aware of best practices nationally that might be applied locally. Supplementing budgetary making authority, the manager's power to hire and fire department provides greater administrative control over department. Definition of roles and responsibilities in a charter may clarify for elected officials the nature of the Manager's authority, diminishing misunderstandings and role conflict. Managers have a personal stake in effective governance. They advance by moving from smaller to larger jurisdictions on the basis of effective performance.

Disadvantages:

The manager has neither an electoral base nor local roots, and therefore can claim no mandate from the public. Instability may arise from the manager's participation in a national profession, and his or her definition of career goals outside the county. Part-time elected officials may not understand the distinction in roles between the administrator and a legislator or board member, or may simply wish to exercise directive control over a department or agency and act accordingly. If

the legislature is divided by partisan or policy differences, the administrator may not be able to get clear policy direction from it.

5. Elected Executive

A county executive is independently elected by the people to perform specific executive functions. This is a true separation of powers system, similar to that used on the state and national levels. The elected legislative body retains legislative authority, but executive authority is vested in a county executive. He or she may be given: power to veto ordinances enacted by the board or legislature (with the commission usually having two-thirds override power); general responsibility for county administration and budget preparation; responsibility for countywide policy leadership; authority to execute acts and resolutions of the board; and appointing and dismissal power over department heads (sometimes with board or legislative approval). Some administrative responsibilities remain with independently elected officers.

Advantages:

The county executive draws power and legitimacy from his or her election. He or she is likely to have strong local roots and previous political/governmental experience. The need for a strong political base encourages accountability and responsiveness to the public. The availability of such a base is also a key resource for influencing the legislature, controlling county government and giving it government direction. Responsibility for policy leadership and governmental management is largely centralized. Full-time leadership is provided. There is clearer public understanding of the location of policy leadership responsibility. There are clear lines of authority and accountability within the government.

Disadvantages:

The legislature is diminished in power. The elected executive may lack the professional training or experience to manage a large organization. There may be divided partisan control, partisan difference between the executive and legislative branches. Usual levels of partisan conflict may be reinforced by institutional (executive vs. legislative) conflict. Staff with similar competencies may be required for both the legislative and executive branches, especially if partisan control is divided.

Note: In order to evaluate effectively the impact of different county structures, future research will consider the impact of structure on county revenues and spending.

Key concepts:

- Authority
- Autonomy
- Accountability
- Budget management
- Efficiency
- Effectiveness
- Equity
- Flexibility
- Legitimacy
- Local ties
- Size
- Partisanship
- Professionalism
- Separation of powers
- Veto power

ANNEX A: BREAKDOWN OF NEW YORK COUNTY STRUCTURES

1. Home Rule Charter	
a. Elected County Executive	16
b. County Administrator	2
c. County Manager	1
	Sub-total 19
2. Non-charter	
a. County Administrator	17
b. County Manager	2
	Sub-total 19
	TOTAL 38
3. City-County Consolidation (NYC) 1	

TABLE 1: ANALYSIS OF COUNTY STRUCTURAL CHARACTERISTICS

	No Separation of Powers-----Separation of Powers				
Structural Characteristics	1a. Board of Supervisors	1b. Legislative System	2. Administrator	3. Manager	4. Elected Executive
1. Source of Authority	Voters in towns	Voters in districts	Appointed by legislature	Appointed by legislature	Elected at large
2. Position (PT/FT)	part-time	Usually part-time	Part- or full-time	full-time	full-time
3. Source of Legitimacy	Partisan election	Partisan election	Professional Training	Professional training	Partisan election
4. Linkage to citizen's idea of community	Strong – tied to local town-based sense of community	Weaker – often based in distinctly created districts	Weaker – May be locally recruited	Weak – nationally recruited	strong – elected from community political bases
5. Conflict of Roles	Conflict of town and county roles	No role conflict	No role conflict	No role conflict	No role conflict
6. Potential for Institutional (i.e., Executive/Legislative) Conflict	None	None	Limited	Moderate	Substantial
7. Potential for Institutional Conflict – Countywide Electeds	Strong	Strong	Strong	Strong	Strong
8. Locus of Budgetary Powers	Board	Legislature	Legislature/ Administrator	Manager (with advice and consent)	Executive
9. Veto power	No	No	No	No	Yes
10. Power to fire & hire Department heads	Board	Legislature	Legislature	Manager	Executive
11. Weighted voting	Yes	No			
12. Partisanship	Strong – majority controls	Strong- Majority controls	Strong – Majority Controls	Strong – Some responsiveness to minority	Strong – May be divided control
13. Separation of powers	No	No	Weak	Moderate	Yes
14. Policy Responsibility	Board	Legislature	Legislature	Legislature/Some shared	Shared
15. Expertise (tendencies)	Largely local knowledge/experience	Largely local knowledge/experience	Some broader experience	Regional/national orientation	Local/statewide knowledge/experience
16. Recruitment –base	Local - partisan	Local - partisan	Local/regional	Regional/nation	Local/countywide
17. Management Accountability	Highly Diffused	Highly Diffused	Less Diffused	Concentrated	Most Concentrated
18. Cost to Public	TO BE DETERMINED	TO BE DETERMINED	TO BE DETERMINED	TO BE DETERMINED	TO BE DETERMINED

SOURCES

(Note: Additional Sources to be added to list)

Harrigan, John J. and David C. Nice. *Politics and Policy in States & Communities*. Seventh Ed. New York, San Francisco, Boston: Addison Wesley Longman, 2001.

Dye, Thomas R. *Politics in States and Communities*. New Jersey: Prentice Hall, 2000.

Judd, Dennis r. and Todd Swanstrom. *City Politics. Private Power and Public Policy*. Third Ed. New York, San Francisco, Boston: Longman, 2002.